

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES
ROSE ROOM: CREEKMORE PARK COMMUNITY CENTER
FEBRUARY 13, 2018 – 5:30 P.M.**

On roll call, the following commissioners were present: Bob Cooper, Jr., Shane Laster, Josh Carson, Vicki Newton, Marshall Sharpe, Ret Taylor, Kelly Wilson, Talicia Richardson and Don Keesee.

Chairman Sharpe then called for the vote on the minutes from the January 9, 2018, meeting. Commissioner Kelly Wilson noted that commissioner (Sharpe) voted against item number 8A. A motion was made and seconded to approve the minutes as corrected.

Mr. Wally Bailey spoke on the procedures.

1. Consent Agenda

A. The Hub @ Providence Addition, Global Surveying Consultants, Inc.

- **The Hub @ Providence- Preliminary Plat**
- **The Hub @ Providence- Final Plat**

B. Conditional Use #6-2-18; A request by John McIntosh, agent for Zemira Grimm, for a mobile food court at 913-915 Garrison Avenue.

C. Conditional Use #5-2-18; A request by Richard Smith, agent for Tim Baskin and Ralph Devin, for a church at 10301 Highway 45 South.

D. A request by Scott Hathaway/Studio 6, agent for Mark and Amy Koenigseder, for development plan approval for an addition to an existing commercial development at 2501 North 50th Street.

Mr. Wally Bailey reviewed the consent agenda consisting of two plats, a conditional use for a mobile food court at 913-915 Garrison Avenue, a conditional use for a church at 10301 Highway 45 South, and a development plan approval for an addition to an existing commercial development at 2501 North 50th Street.

Mr. Bailey stated that the consent agenda includes items that are deemed in compliance with the code and are not considered controversial. He stated unless a planning commissioner or someone in the audience had any special concerns or believed an item should be voted on separately, the items would be voted on as one item.

No one had an objections or comments regarding the consent agenda.

Chairman Sharpe called for a vote on the consent agenda. Motion was made, seconded and carried to approve the request with the inclusion of the staff comments.

The vote was 9 in favor and 0 opposed. Chairman Sharpe announced the item was approved.

2. Home Occupation #2-2-18; A request by Pablo Gutierrez for a landscape business at 1109 North 5th Street.

Ms. Brenda Andrews stated that approval of the home occupation would allow the owner to operate a landscape business at the residence, which will include the storage of two lawnmowers, two line trimmers and a trailer. Ms. Andrews stated that during the review of the application, the staff became aware of two structures on the property that were installed without building permits. An approximate 8' x 12' truck box is located on an adjacent lot owned by the property owner. The structure encroaches the rear setback and may partially encroach the alley. An approximate 10' x 14' storage building that is located in the rear yard behind the house and encroaches the side-yard setback. Additionally, the Neighborhood Services Department inspected the property and has cited the owner for several property maintenance issues, including an inoperable vehicle (Silver Nissan), appliances, outdoor storage (Truck Box), trash and debris. The property owner was given seven (7) days to remove the items.

Ms. Andrews stated that an inspection was done on February 13, 2018, and some of the items had been removed; such as, the appliances, trash and debris.

Ms. Andrews further stated that the home occupation regulations prohibit outdoor storage of equipment. At this time, the applicant has no on-site structure to store the 6' x 14' utility trailer that he plans to utilize in the home occupation. She stated that the planning staff recommended that the application be tabled pending the resolution of these items.

No one was present to speak in favor or opposition of the application.

Chairman Sharpe called for a vote on the home occupation application to be tabled. Motion was made, seconded and carried to table the request and move it to the March agenda.

The vote was 9 in favor and 0 opposed. Chairman Sharpe announced the item was tabled.

3. Rezoning #2-2-18; A request by Nicole Swanson/ERC, agent for Providence, LLC, for an amendment to the Hub @ Providence Planned Zoning District (PZD) at 9101 R.A. Young Drive

Mr. Wally Bailey stated that as the mixed use development had evolved, there was a need to amend portions of the previously approved PZD project booklet. Changes to the approved PZD included the following: 1) A revised exhibit B showing the list of approved land uses within the PZD; 2) a revised site development plan revising the access drives within the development; 3) a revised architectural plan for the two larger commercial/multifamily buildings that front R.A. Young Drive; 4) and a revised land use plan clarifying the multifamily component within the two commercial buildings and within the future Phase III. Additional renderings and pages have been amended to reflect the substantial changes. The development of the mixed use site will consist of single family residences, row houses, commercial and multifamily development.

Mr. Bailey stated that the planning staff recommends approval of the amendments. The staff also recommended a statement in the PZD that would address the construction of any multifamily development on Phase III will comply with the multifamily architectural design standards of the UDO.

Commissioner Taylor questioned if the City Engineering Department requested the drive change. Mr. Bailey stated that it was jointly agreed upon by the Planning Department, the architect and the owner.

Commissioner Keesee questioned if the driveway cut for the original entrance (north entrance) was still needed. Mr. Bailey stated that the driveway would still be there for access to the trash dumpsters.

No one was present to speak in favor or opposition of the application.

Chairman Sharpe called for a vote on the rezoning with the staff comments. Motion was made, seconded and carried to approve the request.

The vote was 8 in favor, 0 opposed and 1 abstain (Carson). Chairman Sharpe announced the item was approved.

4. Rezoning Application #4-2-18; A request by Caroline Gardner/Crafton Tull, agent for Two Payne Girls, LLC, for a zone change from not zoned to Residential Multifamily Medium Density (RM-3) by classification at 6700 Veterans Avenue (Companion to item 5)

5. A request by Caroline Gardner/Crafton Tull, agent for Two Payne Girls, LLC, for a development plan approval for a multifamily development at 6700 Veterans Avenue (Companion to item 4)

Ms. Brenda Andrews read the staff reports indicating the purpose of the requests would allow the development of a multifamily development. She stated the development would include six single family houses on a 1.12 acre lot.

Caroline Gardner with Crafton Tull and Associates, agent for Two Payne Girls, LLC, was present as the representative for the applications.

No one was present to speak in favor or opposition of the application.

Chairman Sharpe called for a vote on the rezoning request and the development plan request with staff comments, subject to the following:

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this Section will require Planning Commission approval.

Motion was made, seconded and carried to approve both items 4 and 5.

The vote for item 4 was 9 in favor and 0 opposed.

The vote for item 5 was 9 in favor and 0 opposed.

6. A request by David Conyers, agent for ERC Holdings, LLC, for a development plan approval for a multifamily development at 6210 Massard Road (Tabled 01/09/2018) (Companion to Item 7)

Mr. Wally Bailey read the staff report for the development plan and variance application describing the project. He stated that approval of the development plan and variances would allow the construction of a 48-unit development consisting of 1 and 2 bedroom units.

Mr. Bailey stated the planning staff recommended approval with the following comments.

Construction must comply with the submitted development plans. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.

- BZA approval of the companion variance requests.
- Any proposed signage placed within the shared access easement shall comply with the Massard Overlay requirements of the UDO. This will limit signage to a monument sign located no closer than 10' to the property line. Please note that there are numerous easements along Massard Road, so it may be necessary to obtain a variance for signage location. Coordination with all utilities located within the easements will be required. A sign permit application for the proposed monument address sign shall be submitted for staff review and approval.
- All exterior building and site lighting shall comply with the Commercial and Outdoor Lighting regulations.

Mr. Bailey then reviewed the variance requests, which would allow less 75% of all units to have private outdoor yard, patio or balcony and would also allow the use of vinyl siding as a high-quality material. The applicant stated that the developer/owner wishes to delete private patios from the design and replace them with community patios and a community pavilion in order to avoid the possibility of tenants placing BBQ grills in close proximity to the apartment buildings which could cause safety issue. The community patios will double the amount of patio space required by the UDO and create safer living conditions for the residents. The applicant also stated that the exterior wall materials proposed for the project consist of brick veneer (including wainscot), vinyl siding in varying width exposures and colors to provide a variety of exterior textures and dimensional character to the buildings and architectural roof shingles.

David Harris (Fort Smith) spoke in opposition of this application. He questioned vinyl siding as labeled high-quality. He stated that if the vinyl siding was approved as high-quality, it would have to be approved on all projects.

David Conyers with Studio 6 Architects, agent for ERC Holdings, LLC, stated that the vinyl siding was .42" siding with a 50 year warranty and a transferable warranty. David also stated that this vinyl siding is a high-quality material, it has a low maintenance requirement and cost almost as much as cementitious siding.

In response to a question from Commissioner Keesee regarding vinyl siding's compatibility with the area, Rod Coleman stated that vinyl siding had been used in the Stonebrook at Chaffee Crossing. He further stated that vinyl siding had changed and that the quality had improved greatly. He said that it was a great product and he felt very comfortable using it for this project which was next to a bank, mini-storage and doctors office. Commissioner Richardson suggested if vinyl siding was allowed as a high-quality material, the UDO should be amended to add that material.

Chairman Sharpe called for a vote on the development plan with staff comments. Motion was made, seconded and carried to approve the application.

The vote was 9 in favor 0 opposed.

RECESS PLANNING COMMISSION AND CONVENE THE BOARD OF ZONING ADJUSTMENT

- 7. Variance #1-1-18; A request by David Conyers, Studio 6 Architects, agent for ERC Holdings, LLC, for the following variances; 1) from Section 27-602-4-D(5)(H) required percentage of private outdoor yard, patio or balcony; 2) from Section 27-602-4(D)(2) to allow vinyl siding as a high-quality exterior material at 6210 Massard Road (Companion to item 6)**

Chairman Sharpe called for a vote on the following variance. Motion was made, seconded and carried to approve the application.

The vote was 8 in favor and 1 (Wilson) opposed. Chairman Sharpe announced the item passed.

- 8. Variance #7-2-18; A request by Jo Hardy, agent for Firststar Bank from 10' to 2'2" minimum distance between a monument sign and a property line at 6200 Massard Road.**

Ms. Brenda Andrews stated that approval of the requested variance would allow the placement of a 6' x 6.5' monument sign along Massard Road for Firststar Bank. Ms. Andrews stated that the applicant's cited hardship was an existing 50' AOG natural gas easement and a 10' utility easement. She also stated the property is also located in the Massard/Zero Street Overlay District, which requires signs to be placed ten (10) from the street right-of-way.

She stated that the easements made it challenging for the applicant to find a location for a monument sign. She further stated that the city's utility department would allow the sign to be placed in the 10' utility easement with approval of a Temporary Revocable License by the Board of Directors. The initial step in the process is for the Board of Zoning Adjustment to approve a variance for the sign distance from the street right-of-way.

Chairman Sharpe called for a vote on the variance use with staff comments. Motion was made, seconded and carried approving the request subject to the following:

- The variance is approved based on the submitted site plan.
- Board of Directors approval of a Temporary Revocable License.

The vote was 9 in favor and 0 opposed. Chairman Sharpe announced the item passed.

9. Variance #6-2-18; A request by Jody Freeman, agent for Kerry Sewell, for an interior side-yard setback from 20' to 9' and from a rear yard setback from 20' to 2' at 3751 Rogers Avenue.

Ms. Brenda Andrews stated the requested variance would allow for the removal of the existing vacuum stations and roof covers. New vacuum stations will be constructed along with four new stations located at the existing parking spaces on the northeast corner of the property. She also stated that a neighborhood meeting was held Monday, January 29, 2018, at 3751 Rogers Avenue. No surrounding property owners attended the meeting.

The applicant stated that the owner would have to reconfigure the site to bring the new vacuum stations into compliance. The proposed new vacuum stations will be similar in size to the existing stations but will not have canopies. The two existing vacuum stations encroach the side and rear setbacks and the new stations will have minimal impact on the surrounding properties.

Chairman Sharpe called for a vote on the variance with staff comments. Motion was made, seconded and carried approval.

The vote was 9 in favor and 0 opposed.

**RECESS BOARD OF ZONING ADJUSTMENT AND
RECONVENE PLANNING COMMISSION**

10. Rezoning Application #5-2-18; A request by Andy Comstock, agent for Daniel & Marcie Comstock and James R. Childers, for a zone change from Transitional (T) to Commercial Neighborhood (C-1) by classification at 314 and 316 Lexington Avenue (Companion to item 11)

11. Conditional Use #3-2-18; A request by Andy Comstock, agent for Daniel & Marcie Comstock and James R. Childers, for a barber shop/salon/spa/massage services at 314 and 316 Lexington Avenue (Companion to item 10)

Mr. Wally Bailey stated that approval of the rezoning and companion conditional use will allow a barber shop/salon/spa/massage services business to utilize the existing building. An existing Fort Smith business Salon Elements is proposing to move their business. Salon Elements is currently located at 3219 Old Greenwood Road. The C-1 zoning district encourages the incorporation of compatible neighborhood commercial uses in close proximity to residential uses for easy and convenient accessibility and the promotion of pedestrian-oriented development.

Commissioner Taylor asked what changes were going to be made to the sign. Mr. Bailey stated that only the name would be changed on the sign and the applicant agreed.

Chairman Sharpe called for a vote on the rezoning and conditional use. Motion was made, seconded, and carried to approve the application subject to the following:

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted but limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.
- The signage shall be limited to a monument or pedestal sign with a maximum of 24 s.f. No pole signs or other signs will be permitted.
- If a dumpster is proposed, it must be screened in accordance with the UDO.
- Any new exterior lighting that might be installed must comply with the UDO lighting requirements.

The vote for item 10 was 8 in favor and 1 (Taylor) abstained.

The vote for item 11 was 8 in favor and 1 (Taylor) abstained.

12. A request by Ron Brixey, agent for Spencer Wiley, Natalie Decker-Kifer and Teena M. Hall Crotty Living Trust, for a Master Land Use Plan Amendment from Residential Detached to Residential Attached at 5601 and 5717 Park Avenue (Companion to items 13 & 14)

13. Rezoning Application #1-2-18; A request by Ron Brixey, agent for Spencer Wiley, Natalie Decker-Kifer and Teena M. Hall Crotty Living Trust, for a zone change from Residential Single Family Duplex Medium Low/Medium Density (RSD-2) to Residential Multifamily (RM-3) by extension at 5601 and 5717 Park Avenue (Companion to items 12 & 14)

14. A request by Ron Brixey, agent for Spencer Wiley, Natalie Decker-Kifer and Teena M. Hall Crotty Living Trust, for a development plan approval for a multifamily development located at 5601 and 5717 Park Avenue (Companion to items 12 & 13)

Ms. Brenda Andrews stated that approval of the Master Land Use Amendment, Rezoning and Development Plan would allow the development of a multifamily development consisting of 27 duplexes on three lots. She stated that a proposed Master Land Use Plan Amendment from Residential Detached to Residential Attached would accommodate a proposed Residential Multifamily Medium Density (RM-3) zoning request. She stated the tract contains an area of 7.95 acres with approximately 843 feet of street frontage along Park Avenue.

Ms. Andrews stated that a neighborhood meeting was held on January 24, 2018, seven (7) property owners attended the meeting. One property owner expressed concern about property value, traffic, and increased crime. She also stated that the Planning staff had received three (3) phone calls from property owners objecting to these items.

In response to a question from Commissioner Carson regarding the location of the existing RM-3 zoning, Ms. Andrews stated that the apartment complex located to the east was zoned RM-3. Mr. Carson also asked if the current zoning (RSD-2) allowed duplexes. Ms. Andrews stated that it does allow duplexes, but duplexes were required to be on individual lots.

Commissioner Taylor asked if there were any comments on the parking. Ms. Andrews stated the applicant had more than the minimum requirement required in the UDO which is 108 parking spaces (2 spaces per unit) and the applicant had 216.

Mr. Ron Brixey, agent for the application, stated that approximately three duplexes would be eliminated due to a gas line easement on the property. He also stated that, if necessary, a 30' setback on the west side adjacent to the existing single family house would be provided. No one was present to speak in favor of this application.

The following property owners were present to speak in opposition of this application. Mr. Sam & Beverly Jagers (6100 Park Avenue), Ms. Julie B. Hamilton (201 N. 56th) and Steve Schwartz (5606 Park Avenue) citing concerns about increased traffic, accidents, and decreased property values.

Chairman Sharpe called for a vote on the Master Land Use Plan Amendment, rezoning and a development plan approval. Motion was made, seconded and denied.

The vote for the Master Land Use Plan request was 4 in favor (Carson, Keesee, Laster & Cooper) in and 5 opposed.

The vote for the rezoning was 3 in favor (Keesee, Laster & Cooper) and 6 opposed.

The vote for development plan was 3 in favor (Keesee, Laster & Cooper) and 6 opposed.

15. A request by Travis Brisendine/Morrison-Shipley Engineers, agent for Beau Harlan, for a Master Land Use Plan Amendment from unclassified to General Commercial at 12000 U.S Highway 71 (Companion to items 16, 17 & 18)

16. Rezoning Application #3-2-18; A request by Travis Brisendine/ Morrison-Shipley Engineers, agent for Beau Harlan, for a zone change from not zoned to Commercial Moderate (C-3) by extension at 12000 U.S Highway 71 (Companion to items 15, 17 & 18)

17. A request by Travis Brisendine/ Morrison-Shipley Engineers, agent for Beau Harlan, for a development plan for a convenience store with gasoline sales at 12000 U.S Highway 71 (Companion to items 15, 16 & 18)

Mr. Wally Bailey stated that approval of the Master Land Use Amendment, Rezoning, Development Plan approval and Variances would allow a 4,662 s.f. convenience store with gasoline sales with 24 parking spaces, and a 5' perimeter landscaping strip on both R.O.W. frontages. He stated that a proposed Master Land Use Amendment from Unclassified to General Commercial would accommodate a proposed Commercial Moderate zoning request. He also stated the applicant was willing to include additional shrubs and trees to the perimeter of the property and to the rear of the building. Mr. Bailey stated that the applicant's cited hardship for the variances were due to right-of-way dedication on the east and west sides of the property, which had reduced the overall size of the lot.

Mr. Bailey stated a neighborhood meeting was held on Thursday, January 25, at 5:30 p.m. at 5704 Euper Lane. Four neighboring property owners attended the meeting with no objections to the project. The applicant also received two phone calls in support of the project.

No one was present to speak in favor or in opposition of this application.

Chairman Sharpe called for a vote on the Master Land Use Plan Amendment, Rezoning and Development Plan. Motion was made, seconded and carried for approval.

The vote for Master Land Use Plan Amendment item was 9 in favor 0 opposed.

The vote for Rezoning was 9 in favor 0 opposed.

The vote for the Development Plan was 9 in favor 0 opposed.

RECESS PLANNING COMMISSION RECONVENE BOARD OF ZONING ADJUSTMENT

- 18. Variance #4-2-18; A request by Travis Brisendine/Morrison-Shipley Engineers, agent for Beau Harlan, for the following variances; 1) from 2 acres to 77,493 s.f. minimum parcel/lot size for rezoning to C-3; and 2) from 10 feet wide to 5 feet wide minimum perimeter/parking lot screening landscape area at 12000 U.S. Highway 71 (Companion to items 15, 16 & 17)**

Chairman Sharpe called for a vote on the following variances. Motion was made, seconded and carried for approval.

The vote was 9 in favor 0 opposed.

- 19. Variance #5-2-18; A request by Matthew Breckenridge, agent for BDP Holdings, LLC from the requirement for a 12' passing aisle for a drive-through window at 4421 Grand Avenue (Companion to item 20)**

Ms. Brenda Andrews stated approval of the variance would allow the drive through window to be constructed without a 12 foot passing aisle. She stated that the development was a new Domino's Pizza restaurant. She added that the applicant stated that due to the topography of the

site, there was not sufficient space for the passing lane. Chairman Sharpe called for a vote on the variance. Motion was made, seconded and carried for approval.

The vote was 9 in favor and 0 opposed.

**RECESS BOARD OF ZONING ADJUSTMENT
RECONVENE PLANNING COMMISSION**

20. Conditional Use #4-2-18; A request by Matthew Breckenridge, agent for BDP Holdings, LLC, for a restaurant with drive-through window at 4421 Grand Avenue (Companion to item 19)

Chairman Sharpe called for a vote on the conditional use. Motion was made, seconded and carried for approval.

The vote was 9 in favor and 0 opposed.

There being no further items, the meeting adjourned at approximately 7:00 p.m.